

REMARKS

Prior to this response, Claims 17-33, 39-41, 48, 49 and 56-58 were pending in the application. By this response, Claims 19, 20, 23, 24, 26, 32 and 39-41 are canceled. Hence, Claims 17, 18, 21, 22, 25, 27-31, 33, 48, 49 and 56-58 are currently pending in the application.

By this response, Claims 17, 18, 21, 22, 25, 27, 28, 30, 33, 48, 49, 56 and 58 are amended.

As a preliminary matter, Applicants have not received an initialed copy of either of the Forms PTO-1449 filed on July 16, 2002 and May 4, 2005. In order to maintain a complete record, it is kindly requested that the references cited therein be considered, the citations initialed on the corresponding PTO-1449, and initialed copies provided with the next paper.

SUMMARY OF THE REJECTIONS/OBJECTIONS

Claims 17, 39 and 48 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly indefinite;

Claims 17, 18, 48, 49 and 56 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Crosskey et al. ("*Crosskey*"; U.S. Patent No. 6,035,281) in view of Pitts ("*Pitts*"; U.S. Patent Number 5,611,049);

Claims 26-31, 40, 41 and 57 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Crosskey* in view of *Pitts* in further view of Gregg et al. ("*Gregg*"; U.S. Patent Number 5,516,416);

Claims 19-24 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Crosskey* in view of *Pitts* in further view of Allard et al. ("*Allard*"; U.S. Patent Number 6,018,619);

Claims 25, 32 and 33 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Crosskey* in view of *Pitts* in further view of *Allard* in further view of Jennings, III et al. (“*Jennings*”; U.S. Patent Number 6,760,763); and

Claim 58 was rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over *Crosskey* in view of *Pitts* in further view of Powell (“*Powell*”; U.S. Patent Number 6,012,038).

THE REJECTIONS NOT BASED ON THE PRIOR ART

Rejection under 35 U.S.C. §112, Second Paragraph

Claims 17, 39 and 48 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly indefinite. Specifically, the Office Action alleges that it is unclear from the claim language whether the content or the content publisher is distributed in various caches.

Claim 39 is canceled herein. Amended Claims 17 and 48 recite “providing, to each of a plurality of content publishers whose content is distributed in various caches on the network, statistics based on activity records and the corresponding requests for content provided by the content publisher ...” Therefore, it is clear that the content is distributed in various caches on the network, rather than the content publisher, and this rejection is now moot. Based on the foregoing, withdrawal of the rejection of Claims 17 and 48 under 35 U.S.C. § 112, second paragraph is respectfully requested.

THE REJECTIONS BASED ON THE PRIOR ART

Rejections under 35 U.S.C. §103(a)

Claim 17 recites the steps of:

in response to a first request, via a first network access provider, for
particular content wherein the particular content is served from a
first server cache at a first location on the network, creating at the
first server a first activity record corresponding to the first request;

in response to a second request, via a second network access provider, for the particular content wherein the particular content is served from a second server cache at a second location on the network that is a different location from the first location, creating at the second server a second activity record corresponding to the second request;

receiving from the first server, at a gateway to the first network access provider network, a first set of activity records that contain statistics about requests for content that resides in caches at a plurality of locations wherein the first set of activity records includes the first activity record;

receiving from the second server, at a gateway to the second network access provider network, a second set of activity records that contain statistics about requests for content that resides in caches at a plurality of locations, wherein the second set of activity records includes the second activity record;

forwarding the set of activity records to a cooperative gateway server managed by a cooperative of network service providers, wherein the cooperative of network service providers comprises (a) the first and second access providers, (b) distribution network owners associated with the first and second servers, and (c) content hosting providers associated with content publishers;

the cooperative gateway server collating the the set of activity records based on which content publisher provided the content associated with each respective activity record;

forwarding collated activity records to respective content hosting providers associated with respective content publishers; and

providing, to each of a plurality of content publishers whose content is distributed in various caches on the network, statistics based on activity records and the corresponding requests for content provided by the content publisher so that the plurality of content

publishers can monitor the overall number of accesses to their
respective content regardless of the content cache location.

No combination of *Crosskey* and *Pitts* teaches or fairly suggests:

(a) creation of respective activity records, by respective servers at which particular content is cached and served in response to respective requests for the particular content, that correspond to the respective requests (i.e., an activity record corresponding to each request);

(b) receiving respective sets of activity records, from the servers at which content is cached, at gateways to access provider networks;

(c) forwarding the sets of activity records to a server managed by a cooperative of network service providers comprising the access providers, distribution network owners, and content hosting providers, where the records are collated based on which content publisher provided the corresponding content;

(d) forwarding collated activity records to respective content hosting providers associated with respective content publishers; and

(e) providing to each content publisher activity records corresponding to requests for content provided by the content publisher, so that the content publisher can monitor the number of accesses to their content regardless of where the content is cached on the network.

Generally, the concept of such a centralized, cooperative management of distributed cached content is not supported in the cited references. The collective disclosure of *Crosskey* and *Pitts* shows that it would not have been obvious to one skilled in the art to arrive at the embodiment recited in Claim 17 because the collective disclosures simply do not teach or suggest the features recited therein. For example, neither reference even refers to a content publisher being able to monitor access to distributively cached content that is not under the

publisher's direct control. Therefore, the cited references clearly do not teach or suggest *how* to enable and provide such functionality to content publishers.

Furthermore, the cooperative of network service providers recited in Claim 17 is not disclosed in *Gregg*, as alleged in a previous rejection (e.g., of former Claim 26). The position of the Office Action appears to be that subscribers in a subscription-based network access system are analogous to the network service provider members of the cooperative. This is not a reasonable analogy because the subscribers are not the entities providing network services, rather the subscribers are subscribers to the network access system (i.e., the clients).

Based on the foregoing, Claim 17 is patentable over the cited references of record. Claims 18, 21, 22, 25, 27-31, 33, 57 and 58 depend directly or indirectly from Claim 17. Because the rejections of these dependent claims rely in part on the same disclosures on which the rejection of Claim 17 is based, these dependent claims are patentable over all the references of record for at least the same reasons as Claim 17.

Claim 48 recites computer-readable media with instructions which, when executed by one or more processors, perform similar steps to those recited in Claim 17. Therefore, Claim 48 is patentable over the references of record for at least the same reasons as Claim 17. Claim 49 depends from Claim 48 and, therefore, is patentable over all the references of record for at least the same reasons as Claim 48.

Claim 56 recites similar features to some of those recited in Claim 17. Therefore, Claim 56 is patentable over the references of record for at least the same reasons as Claim 17.

Furthermore, each of the dependent claims includes at least one other limitation that makes it further patentable over the references of record. However, due to the fundamental difference between Claim 17 and *Crosskey* and *Pitts* discussed above, discussion of these additional differences is unnecessary and is foregone at this time beyond the extent presented

below. However, the rejection of the dependent claims is collectively traversed, and no statements of official notice, overarching allegations of obviousness, or allegations of well-known features that may be present in the Office Action are stipulated to or admitted as prior art features, and the right to separately argue such features in the future is not disclaimed. Withdrawal of the rejection of Claims 17, 18, 21, 22, 25, 27-31, 33, 48, 49 and 56-58 under 35 U.S.C. § 103(a) is respectfully requested.

For example, regarding Claim 58, collecting the geographic location of customers via a question on an application for a customer card is not a reasonable analogy to the extraction from activity records of geographic information about those who request content corresponding to the activity records. This is especially true in view of the manner in which activity records are created by servers at which content is cached, and the manner in which the activity records are collated and otherwise managed among members of the cooperative, as recited in Claim 17.

CONCLUSION

For the reasons set forth above, it is respectfully submitted that all of the pending claims are now in condition for allowance. Therefore, the issuance of a formal Notice of Allowance is believed next in order, and that action is most earnestly solicited.

The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.

Please charge any shortages or credit any overages to Deposit Account No. 50-1302.

Respectfully submitted,

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